THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6509 of 2006

03.4.2006

Between:

T.Bodi Reddi, S/o.Chinna Subba Reddi

… Petitioner

AND

The District Collector, Chittoor District

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6509 of 2006

ORDER:

The petitioner is resident of Seshachalapuram H/o.Mapakshi village of Chittoor Mandal. He was allegedly assigned an extent of Acs.3.40 in survey No.283/1B situated in Mapakshi village under DKT patta by proceedings dated 30.6.1962 by the then Tahsildar of Chittoor. Admittedly, the original grant is lost. Be that as it is, when respondents 4 and 5 herein, who are none other than the brothers of the petitioner, allegedly made an attempt in April 2005 to trespass into the land, he filed a suit being O.S.No.242 of 2005 on the file of the Court of III Additional Junior Civil Judge, Chittoor for perpetual injunction. The same is pending. The petitioner alleges that he came to know that the respondents 4 and 5 manipulated the records and brought into existence DKT No.354/4/1392, dated 30.6.1983 and DKT No.355/4/1392, dated 30.6.1983. He contends that the patta granted to him in 1962 has not been cancelled and, therefore, any such patta granted to respondents 4 and 5 by proceedings dated 30.6.1983 as illegal and arbitrary. Therefore, he filed the present writ petition.

Learned Counsel for the petitioner submits that it is only when respondents 4 and 5 made an attempt to trespass into the land, the petitioner came to know about the fabricated pattas in favour of respondents 4 and 5. If these pattas are not declared illegal, the same would violate the petitioner's fundamental right under Article 21 and constitutional right under Article 300A of Constitution of India. He also contends that the grant of pattas by the then Tahsildar in favour of respondents 4 and 5 is

illegal and arbitrary.

The petitioner challenges DKT pattas granted in favour of respondents 4 and 5 in June 1983 and the writ petitioner is filed on 31.3.2006. The reason for such huge delay is not properly explained except stating that in June 2005, he came to know that the respondents fabricated the documents. Secondly, the petitioner has already filed the suit to protect his possession and it is open to him to make necessary pleadings in the suit. It is not denied before this Court that this writ petition is filed only to get over the documentary evidence that might be produced by the defendants in O.S.No.242 of 2005 (respondents 4 and 5 herein). Such writ petition is not maintainable. In case, the contesting respondents produced the evidence i.e., DKT pattas, it is open to the petitioner to raise all the grounds. Having filed the suit, he cannot maintain the present writ petition.

The writ petition is, therefore, dismissed. No costs.

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(**V.V.S.RAO,J**)

April 03, 2006.

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